



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.04.2018

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THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Tr.C.M.P. (MD) No.531 of 2017

and

CMP (MD) No.11389 of 2017

M.Karthikeyan

.. Petitioner/Petitioner

vs.

Kaladevi

.. Respondent/Respondent

Prayer: Petition filed under Section 24 of C.P.C. to withdraw the H.M.O.P.No.28 of 2013 on the file of the Sub Court, Paramakudi and subsequently transferred and renumbered as H.M.O.P.No.63 of 2017 from the file of Sub-Court, Mudukulathur and to transfer the same to the file of the Sub-Court, Karaikudi.

For Petitioner : Mr.PT.S.Narendravasan

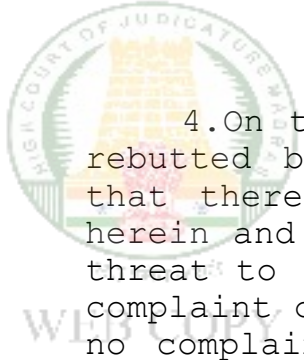
For Respondent : Mr.H.Thayumanaswamy

ORDER

The husband in H.M.O.P.No.63 of 2017 filed this Transfer Petition seeking to transfer the divorce petition filed by him on the ground of cruelty and desertion from the file of the Sub Court, Mudukulathur to the file of Sub Court, Karaikudi.

2.It is the contention of the learned counsel for the petitioner that originally husband has filed divorce petition against his wife/ respondent herein before the Sub Court, Paramakudi in H.M.O.P.No. 28 of 2013 and the same was transferred to the file of the Sub Court, Mudukulathur and renumbered as H.M.O.P.No.63 of 2017 for want of pecuniary jurisdiction.

3.The main contention urged by the learned counsel for the petitioner for transfer of the above H.M.O.P. was that the Mudukulathur is the native place of the respondent and there was life threat to the petitioner by the respondent/wife and her henchman.



4. On the other hand, the said contention of the petitioner was rebutted by the learned counsel for the respondent/wife, stating that there was no such attempt of life threat to the petitioner herein and his family members as alleged by him. If at all any life threat to the petitioner, definitely he would have lodged a police complaint or made a complaint before the trial Court. But, there was no complaint by the petitioner herein before the Police or Court itself would go to show that the said allegations are baseless, and the same are made only for the purpose of filing this Transfer Petition. Therefore, the learned counsel prayed this Court to dismiss the above Transfer Petition.

5. I heard Mr. PT. S. Narendravasan, learned counsel for the petitioner and Mr. H. Thayumanaswamy, learned counsel for the respondent and perused the entire material available on records.

6. This Court carefully considered the submissions made by the learned counsel for the petitioner regarding the life threat given to the petitioner. Expect an averment to that effect in the affidavit filed in the support of this Transfer Petition, there was no other document was produced to substantiate the contention of life threat. Further, the petitioner himself has admitted that he has not made any police complaint regarding the threatening made by the respondent herein. That apart, this Court is not in a position to understand as to why the petitioner herein is seeking to transfer the above H.M.O.P. to the file of the Sub Court, Karaikudi. There is no reason assigned by the petitioner to transfer the H.M.O.P. from the file of the Sub Court, Mudukulathur to the file of the Sub Court, Karaikudi.

7. In this case the respondent wife is living with a male child at her parent house at Mudukulathur. As far as the Transfer Petition is concerned, the paramount consideration would be always in favour of the women and the said proposition has been reiterated by the Hon'ble Apex Court in a catena of decision. It is well settled law that whenever, the Transfer Petition is filed in matrimonial disputes, the convenience of the wife shall be given preference, as held by the Hon'ble Apex Court in the decision reported in 2008 (9) Supreme Court Cases 353.

8. In view of the discussion made above and in the light of the settled legal position, I do not find any reason to transfer the divorce petition filed by the husband and the same is liable to be dismissed and accordingly dismissed.

9. In the result, the Transfer C.M.P.No.531 of 2017 is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CO)

<https://hcservices.ecourts.gov.in/hcservices/> / True Copy /

Sub Assistant Registrar/-



1.The Subordinate Judge,
Mudukulathur.

2.The Subordinate Judge,
Karaikudi.

3.The Subordinate Judge,
Paramakudi.

+1CC to Mr.PT.S.Narendravasan Advocate in SR.No.61477.

+1CC to Mr.H.Thayumanaswamy Advocate in SR.No.61468.

VSV

DS/SV/SAR-4 :17.07.2018: 3P/6C

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